Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner of Patents and Trademarks

	Office Action Summary	Application No. 09/092,791	Applicant(s) Elchstaedt et al.
		Examiner Paul Kang	Group Art Unit 2756

☒ Responsive to communication(s) filed on _Jun 19, 2000_

☒ This action is **FINAL.**

☐ Since this application is in condition for allowance except for formal matters, **prosecution as to the merits is closed** in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

A shortened statutory period for response to this action is set to expire _____3___ month(s), or thirty days, whichever is longer, from the mailing date of this communication. Failure to respond within the period for response will cause the application to become abandoned. (35 U.S.C. § 133). Extensions of time may be obtained under the provisions of 37 CFR 1.136(a).

Disposition of Claim

☒ Claim(s) _1-39_____ is/are pending in the applicat

Of the above, claim(s) _____ is/are withdrawn from consideration

☐ Claim(s) _____ is/are allowed.

☒ Claim(s) _1-39_____ is/are rejected.

☐ Claim(s) _____ is/are objected to.

☐ Claims _____ are subject to restriction or election requirement.

Application Papers

☐ See the attached Notice of Draftsperson's Patent Drawing Review, PTO-948.

☐ The drawing(s) filed on _____ is/are objected to by the Examiner.

☐ The proposed drawing correction, filed on _____ is ☐ approved ☐ disapproved.

☐ The specification is objected to by the Examiner.

☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. § 119

☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).

☐ All ☐ Some* ☒ None of the CERTIFIED copies of the priority documents have been

☐ received.

☐ received in Application No. (Series Code/Serial Number) _____ .

☐ received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

*Certified copies not received: _____

☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

Attachment(s)

☒ Notice of References Cited, PTO-892

☐ Information Disclosure Statement(s), PTO-1449, Paper No(s). _____

☐ Interview Summary, PTO-413

☐ Notice of Draftsperson's Patent Drawing Review, PTO-948

☐ Notice of Informal Patent Application, PTO-152

— SEE OFFICE ACTION ON THE FOLLOWING PAGES —

U. S. Patent and Trademark Office
PTO-326 (Rev. 9-95)

Office Action Summary

Part of Paper No. ___6___

1.   The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all

obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in
> section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are
> such that the subject matter as a whole would have been obvious at the time the invention was made to a person
> having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the
> manner in which the invention was made.

2.   Claims 1-39 are rejected under 35 U.S.C. 103(a) as being unpatentable over Judson, US

Pat. No. 5,572,643 (hereafter referred to as Judson) in view of "Proactive Universal Resource

Locators Lookup in Internet Web Browsers", IBM Technical Disclosure Bulletin, vol. 40, no. 9,

September 1997, pp. 113-114; TDB0997.0041 (hereafter referred to as TDB) and further in view

of Ching et al., US Pat. No. 5,864,611.

3.   As to claims 1, 14, 15 and 27, Judson discloses the invention substantially as claimed.

Judson discloses *a method of alleviating problems associated with delays in accessing data on*

network, comprising the steps of (Judson, col. 1, line 13 – col. 2, line 53)*:*

         a) accessing data on a network from a client computer (a client connected to a server

through a network accesses web pages using web browsers; Judson, col. 1, line 13 – col. 2, line

53);

         c) presenting filler contents on the client computer...., wherein the filler contents are

customized to a user's taste (latency filler contents, customized on user interest, are displayed

during web page access; Judson, col. 5, line 50 – col. 6, line 24 and col. 7, lines 2-17).

         However, Judson does not specifically disclose step *b) identifying when a delay occurs....*

TDB teaches a system which identifies possible problems associated with accessing web pages

in order to alleviate problems associated with delays in web page access (TDB, pages 1-2). It

would have been obvious to one having ordinary skill in the art at the time the invention was

made to incorporate the method of identifying access delays as taught by TDB into the system of

Judson in order to increase the efficiency of the system by selectively displaying filler contents

to only those links with high latency times.

Judson-TDB does not specifically disclose identifying a **sufficient** delay in the network.

Ching teaches detecting network delays to a specific threshold (Ching, abstract and col. 1, line 5

– col. 2, line 52).

It would have been obvious to one having ordinary skill in the art at the time the

invention was made to incorporate the detecting a sufficient delay as taught by Ching into the

system of Judson-TDB for the purpose of further increasing the efficiency of the system by

enabling detection of the amount of delay and applying the filler data accordingly.

The apparatus of claims 14 and 15 are similar to the apparatus of claim 1 and have

similar limitations except in method steps; therefore, claims 14 and 15 are rejected under the

same rationale.

4.   As per claims 2, 5, 6, 7, 9 10, 28, 31, 32, 33, 35, and 36, Judson-TDB-Ching discloses

filler contents which can be pre-selected from user interests obtained by web access history or

from the accessed web page (Judson, col. 6, line 62 – col. 7, line 17).

5.   As per claims 3, 4, 29, and 30, Judson-TDB-Ching discloses filler contents selected from

a group comprising text, graphics, audio, and audiovisual data. The filler data can be of any type

of web content, static or dynamic (Judson, col. 6, line 25 – col. 7, line 17).

6.   As per claims 8, 18, 19, and 34, Judson-TDB-Ching discloses retrieving and storing the

filler object on the client (Judson, col. 5, lines 16 – col. 6, line 11).

7.   As per claims 11 and 37, Judson-TDB-Ching discloses that the client computer identifies

latency (TDB, page 1).

8.   As per claims 12, 13, 24, 25, 38 and 39, Judson-TDB-Ching discloses displaying the

filler while the original web page is downloaded and deactivates the filler when downloading is

complete (Judson, col. 5, line 50 – col. 6, line 12).

9.   As per claim 16, Judson-TDB-Ching discloses a browser for retrieving the embedded

filler content from a server (Judson, col. 6, line 62 – col. 7, line 17).

10.   As per claim 17, Judson-TDB-Ching discloses the browser (enabled to be filler

engine/filler content receiver) request and reception of the filler from a server (Judson, col. 5,

line 50 – col. 6, line 11).

11.   As per claim 20, Judson-TDB-Ching discloses the use of cached filler content (Judson,

col. 5, lines 16-40).

12.   As per claim 21, Judson-TDB-Ching discloses the use of filler content during latency
experienced when downloading web pages (Judson, col. 5, line 50 – col. 6, line 11).

13.   As per claim 22, Judson-TDB-Ching discloses the filler engine being an extension to the
browser (Judson, col. 6, line 62 – col. 7, line 17).

14.   As per claim 23, Judson-TDB-Ching discloses the filler engine as a component separate
from the browser, embedded in the downloaded web page (Judson, col. 5, line 50 – col. 6, line
24).

15.   As per claim 26, Judson-TDB-Ching discloses the filler engine responding to information
sent from the server to display filler objects (Judson, col. 5, line 50 – col. 6, line 24).

Response to Arguments

7. Applicant's arguments with respect to claims 1-26 have been considered but are moot in view
of the new ground(s) of rejection.

7. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office
action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is
reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE

MONTHS from the mailing date of this action. In the event a first reply is filed within TWO

MONTHS of the mailing date of this final action and the advisory action is not mailed until after

the end of the THREE-MONTH shortened statutory period, then the shortened statutory period

will expire on the date the advisory action is mailed, and any extension fee pursuant to 37

CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event,

however, will the statutory period for reply expire later than SIX MONTHS from the date of this

final action.

Any inquiry concerning this communication or earlier communications from the

examiner should be directed to Paul H Kang whose telephone number is (703) 308-6123. The

examiner can normally be reached on 9 hour flex. First Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's

supervisor, Mark Rinehart can be reached on (703) 305-4815. The fax phone numbers for the

organization where this application or proceeding is assigned are (703) 305-9731 for regular

communications and (703) 305-3900 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding

should be directed to the receptionist whose telephone number is (703) 305-3900.

Paul H Kang
Examiner
Art Unit 2756

Mark H. Rinehart
Primary Examiner

August 28, 2000